

### **Remarks**

In response to the Office Action dated June 06, 2008, Applicants respectfully request reconsideration based on the above claim amendment and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. In the present application, claims 1, 20-21, 26 and 30 have been amended. No new matter was added.

### **Applicants' Statement of the Substance of the Interview**

A telephonic interview between the undersigned representative for the Applicants and the Examiner was held on August 18, 2008. During the interview proposed amendments were discussed to address the §112 issues. It was also discussed that some corrections were made to the specification. No agreement was reached as to allowability. The Examiner requested written amendments and arguments be provided for consideration.

### **Claim Objections**

Claim 25 is objected to for having the wrong status identifier. The status identifier has been corrected and as such the objection may be withdrawn.

In general the claims are objected to for allegedly inconsistently interchanging 'first computing system' with 'first computer system'. Corrections have been made to claim 20 which is the only claim apparently at issue.

### **Objections to the Disclosure**

The disclosure is objected to because of several perceived informalities in paragraphs [0031], [0034], [0035] and [0038].

In regard to paragraph [0031], the phrase "that can be processed by OS 210" has been amended to read "that can be processed by OS 218a" to conform to the other components of client computing system 116a.

In regard to paragraph [0034], the phrase "In server system 116c" has been amended to read "In client system 116c" to conform with the actual description of figure item 115c.

In regard to paragraph [0035], the specification is correct in that at step 316 the instruction in the native format is both translated for transmission and is executed locally such that the output is generated both at the server computing system 112 and at the client computing

system 116. The phrase “OS 210 may also execute the instruction” has been amended to “OS 210a may also execute the native format instruction” to clarify the point. Box 316 in Figure 3 merely omits the optional feature that “OS 210a may also execute the native format instruction”.

In regard to paragraph [0038], the phrase “the instructions are executed by OS 210a” has been amended to read “the instructions are executed by OS 218a” to be consistent with computing system 116a.

In light of the above amendments and arguments, the objections may be withdrawn.

### **Claim Rejections - 35 U.S.C. §112 (first paragraph)**

Claim 26 and 29 are rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. Independent claim 26 recites, in pertinent part:

“[a] method for providing remote computer access between computing systems with incompatible operating systems, comprising:

“...receiving data from the second operating system related to the second user input instruction being executed, the data defining a first system output instruction, the first system output instruction relating to the first user input instruction and being compatible with the second operating system executing on the second computer and incompatible with the first operating system on the first computer...”.

The Office Action asserts that the above recited element is “deemed nowhere described in the scenario described in figure 2-3 of the specification”. Applicants respectfully disagree and refer, for example, to an exemplary embodiment encompassing diagram items 112a, 114 and 116a and their component parts.

On page 4, l. 5 the Office Action evidently agrees that the specification discloses the claim element that recites “executing the second user input instruction by the second computer”. (¶0043). It then necessarily follows that system outputs resulting from the execution of the second input instructions necessarily have to be comprised of some type of data whether it is simply data or some type of instruction.

As such, Applicants respectfully point to ¶¶0020 and 0024 where it is disclosed that user inputs into computing system 116a are routed to server 112a where they are executed and system outputs (i.e. resulting from inputs that were executed at server 112a) are sent back from server 112a to computing system 116a. As such, the specification does disclose “...receiving data from the second operating system related to the second user input instruction being executed, the data

defining a first system output instruction, the first system output instruction relating to the first user input instruction...” Applicants also point out that prior to being translated by translator 216a for transmission to computing system 116a, the first system output instruction is necessarily compatible with the second operating system that has just generated it.

Further, Applicants respectfully refer the Examiner to ¶0044, l. 12-15. The specification specifically discloses “even if computing systems 112a-c and 116a-c employ different operating systems, **or are otherwise incompatible...**” Here the specification is specifically disclosing an embodiment where the operating systems are incompatible because they are different. As such, there is support for the element “...the first system output instruction...being compatible with the second operating system executing on the second computer and incompatible with the first operating system on the first computer...”

Therefore, for the above reasons, the Specification does indeed disclose and provide support for the entire claim element that recites “...receiving data from the second operating system related to the second user input instruction being executed, the data defining a first system output instruction, the first system output instruction relating to the first user input instruction and being compatible with the second operating system executing on the second computer and incompatible with the first operating system on the first computer...” As such the §112 rejection may be withdrawn.

Claim 29 depends from independent claim 29 and is rejected solely because its base claim is rejected. Because base claim 26 is allowable, claim 29 is allowable for at least the same reasons.

### **Claim Rejections - 35 U.S.C. §102**

Claims 1-10, 12 and 20-30 are rejected as being anticipated by Salmenkaita (U.S. Patent App. 2004/0176958). Applicants respectfully traverse the rejections.

Amended independent claim 1 recites, in pertinent part:

[a] method for providing remote computer control of an application executing on a second computer from a first computer over a network, comprising:  
receiving a first user input instruction by a first operating system running on the first computer for execution, the first user input instruction being operationally compatible with a first computer language of the first operating system and operationally incompatible with a second computer language of a second operating system executing on the second computer the first operating system being incompatible with the second operating system thereby requiring the first

user input instruction to be translated from the first computer language of the first operating system in order to be executed by the second operating system”

It is respectfully submitted that Salmenkaita fails to describe each and every feature specified in amended claim 1. Salmenkaita concerns itself with a system using voice commands from a wireless device to instantiate an application on the wireless device that is resident and available on a network. (Abstract). The voice commands correspond to a list of previously defined XML voice short-cuts that can be matched to a particular voice input to instantiate one of several user services that may be accessed from the wireless device. (§ 0039).

In a distributed computing environment, Salmenkaita describes that various processing tasks may be distributed between the wireless user device, a network server and other network devices. (§0046). A network server then identifies a service corresponding to a voice short-cut that matches the user’s voice command (see §§ 0008, 0044 and 0052).

The network servers are configured to implement both a service recommendation and the related voice recognition processing. When a voice command is received from the user by the wireless device, the voice command data is **forwarded to the network server which uses voice recognition processing to identify the service by matching the voice command to a voice shortcut**. The network server then returns the selected service address to the wireless device for instantiation (§§ 0047 and 0049). Throughout the description in Salmenkaita, the operating systems of both the wireless device and the network server are never described as being incompatible and are never described as requiring command translation either at the wireless device or at the server. In other words the server recognizes the commands from the handheld without translation.

Salmenkaita does describe using voice recognition for translating verbal commands to voice command data. However, mere voice utterances, without translation into computer language, are incompatible with the operating systems of the wireless device and the network server. To the extent that translation from voice to machine language is required at the handheld for a voice instruction to be compatible with the operating system of the handheld, it is likewise the case that at the server the same voice instruction would also require translation into a machine language to be compatible with the operating system of the server. Thus a voice instruction is incompatible with the operating systems of both the handheld and the server. Such a description in Salmenkaita is contrary to the claim elements which recite that instructions are

compatible with one operating system and incompatible with the other. Therefore, just because the operating systems of the wireless device and the network server require the translation of verbal utterances into a machine language format that is compatible with their particular operating systems, it does not follow that Salmenkaita is describing that its wireless device operating system is incompatible with the operating system of the network server.

To the contrary, in Salmenkaita the voice command data is simply forwarded from the wireless device directly to the network server without translation since the server apparently recognizes the commands from the handheld without requiring further translation between a first computer language to a second computer language. (¶¶ 0047, 0049, 0052). Because Salmenkaita fails to describe translating the voice command data at the wireless device where the user input is initially received, Salmenkaita is at least implying, if not plainly describing, that the operating systems of the network server and the wireless device are directly compatible.<sup>1</sup> Salmenkaita certainly does not describe translating the voice command data from a first computer language to a second computer language.

After forwarding to the server, the network server uses the voice command data [without translation] to select the proper XML voice short cut matching the voice command. Just because the server utilizes voice XML tags after **processing** the voice commands from the wireless device, it does not follow that the operating systems of the wireless device and the server are incompatible.

In rebuttal to Applicants' previous response, the Office Action (See Note on page 9, line 7) argues that merely because the wireless device and the server may have dissimilar user interfaces, that it is then **implicit** that the operating systems (i.e. native code) of the wireless device and the network server are therefore being described as being mutually incompatible. Applicants respectfully but completely disagree that if the user interfaces are different that the operating systems are incompatible in Salmenkaita.

For example, a first Windows XP<sup>®</sup> computer system may have a computer mouse as a user interface. A second Windows XP<sup>®</sup> computer may have a microphone as a user interface. However, it does not follow that merely because the user interfaces are different the XP<sup>®</sup> operating system on the first computer is incompatible with the XP<sup>®</sup> operating system on the

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<sup>1</sup> "...the wireless device receives a voice command from the user and forwards the voice command data to the network server [and possibly other relevant information...such as ...voice XML tags]. (Salmenkaita, Para. 0052).

second computer. In fact, it is unarguable that instructions from the first Windows XP® computer operating system would be understandable and executable with out translation by the second Windows XP® computer operating system.

A claim is anticipated only if each and every element as set forth in the claim is found either **expressly or inherently** in a single reference. (MPEP 2131). Here, the Office Action admits to relying on mere **implication** that because the user interfaces of the wireless device and the server in Salmenkaita may be different then it necessarily follows (i.e. that it is inherent) that their operating systems are also incompatible.

The fact that a certain characteristic may be present in the prior art is not sufficient to establish the inherency of the characteristic. To establish inherency, the extrinsic evidence must make clear that the missing descriptive material is necessarily present in the thing described in the reference and be so recognized by one of ordinary skill in the art. Inherency may not be established by possibilities or probabilities. The mere fact that something may result from a given set of circumstances is not sufficient. The Examiner must provide a basis in fact and/or technical reasoning to reasonable support the determination that the allegedly inherent characteristic necessarily flows from the teaching of the applied prior art. MPEP 2112. Here, the Examiner must provide a basis in fact that the operating system in the handheld is necessarily incompatible with the operating system in the server such that a command sent from one to the other requires translation in order to be executed.

To the extent that the missing subject matter may be inherent in Salmenkaita, such a gap may be filled with recourse to **extrinsic** evidence. Such extrinsic evidence must make clear that the missing descriptive matter is **necessarily** present in the thing described in Salmenkaita, and that it would be so recognized by one of ordinary skill in the art. (MPEP 2131.01(III)).

Applicants respectfully point out that because both operating systems (handheld and server) may process the same voice **command data** and because there is no discussion of the voice **command data** being agnostic to either or to both of the operating systems, there is nothing in Salmenkaita indicating that the two operating systems are incompatible such that instructions generated by one would not be understood by the other. As such, Salmenkaita is describing that the voice commands are compatible with the operating systems of both the wireless device and the network server and is not describing that they are incompatible.

Conversely, Applicants respectfully point out that no **extrinsic** evidence of any sort has been provided by the Examiner to substantiate the inference that because the user interfaces of the wireless device and the server may be different that it necessarily it follows (i.e. that it's inherent) that their operating systems are also incompatible.

Because the Office Action admits that at least one claim element is missing and may only be found by speculation, the Office Action has failed to establish that Salmenkaita anticipates independent claim 1 for at least this reason because such characteristic does not necessarily flow from the description in Salmenkaita. (MPEP 2131). Therefore independent claim 1 is allowable over Salmenkiata for at least these reasons.

Further, Applicants respectfully assert that Salmenkiata also fails to describe "...translating the first user input **instruction** from the first computer language of the first operating system into a data script defining at least one XML item...". To the contrary, Salmenkaita describes that the voice command data is processed, is sent from the wireless device operating system **untranslated**, and is used by the server **untranslated** to then select the desired service by matching the voice commands to the voice shortcuts. Therefore, Salmenkiata makes it clear that the operating system of the server is processing the same voice **command data** as the operating system of the wireless device without translation.

Therefore, because Salmenkaita fails to describe "...translating the first user input **instruction** from the first computer language of the first operating system into a data script defining at least one XML item...", Salmenkaita fails to describe each and every claim element of independent claim 1. As such, Salmenkiata fails to anticipate independent claim 1. As such, independent claim 1 is allowable over Salmenkaita for at least this additional and independent reason.

Claims 2-10 and 12 each depend from amended independent claim 1 and thus specify at least the same features. Therefore, these claims are allowable for at least the same reasons. Amended independent claims 20, 21, and 26 recite similar subject matter as amended independent claim 1 and thus are also allowable for at least the same reasons. Claims 22-25 and 27 depend from amended independent claims 21 and 26, respectively, and thus specify at least the same features. Therefore, these claims are also allowable for at least the same reasons. Accordingly, the rejection of claims 2-10, 12, and 20-27 should also be withdrawn.

### Incompatibility of Operating Systems

During the telephone interview, the Examiner expressed concern that the Applicants' specification did not explain how or why one operating system may be incompatible with another and at which layer the incompatibility was occurring. Applicants respectfully point out that it is not relevant to the enablement of Applicants' disclosure as to why two operating systems may be incompatible. It is a predicate assumption to at least one embodiment of the disclosure that two operating systems are indeed incompatible. Given the number of operating systems currently in use and the number of combinations and permutations between them that may exist, such discussion would be voluminous and not particularly enlightening to those of ordinary skill in the art. What is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, the adequate description is met. (MPEP 2163).

Further it is not relevant to at least one embodiment of the disclosure that commands generated at one layer (e.g. socket layer) are not executable by another layer (e.g., an application). This is so because the operating system, by definition, coordinates the interoperability of layers within a particular computer.

Applicants also assert that merely reciting that the first and second operating systems are incompatible would be prima facie definite under §112 first and/or second paragraph because one of ordinary skill concerning operating systems can determine if any single thing, regardless of what, creates an incompatibility between those systems.

### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicants' attorney at the number listed below.



Please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Date: September 3, 2008

Respectfully submitted,

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